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**UTAH LABOR COMMISSION**

**NGOC VAN LE,**

**Petitioner,**

**vs.**

**LEVELOR KIRSH and  
PHOENIX INSURANCE CO.,**

**Respondent.**

**ORDER AFFIRMING ALJ'S  
AMENDED DECISION**

**Case No. 07-0491**

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Ngoc Van Le asks the Utah Labor Commission to review Administrative Law Judge Holley's decision regarding Mr. Le's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

**BACKGROUND AND ISSUE PRESENTED**

Mr. Le claims workers' compensation benefits for injuries to his chest and knee allegedly caused by a work accident at Levelor Kirsh ("Levelor" hereafter) on March 15, 2007. After an evidentiary hearing on Mr. Le's claim, Judge Holley awarded temporary total disability compensation and medical benefits to Mr. Le for his chest injury. Judge Holley denied benefits for Mr. Le's knee injury on the grounds that injury was not work related.

Mr. Le and Levelor each requested Commission review of Judge Holley's decision—Levelor asserted that Mr. Le had not missed sufficient work as a result of his chest injury to warrant any temporary total disability compensation; Mr. Le raised complaints regarding unfair treatment and lack of assistance from Levelor.

After receiving the foregoing motions for review, Judge Holley amended her initial order by striking the award of temporary total disability compensation to Mr. Le, thereby granting the relief requested in Levelor's motion for review. For that reason, the Commission takes no further action on Levelor's request, but because Judge Holley's amended order does not address Mr. Le's motion for review, the Commission will address Mr. Le's complaints.

**DISCUSSION AND CONCLUSION OF LAW**

Most of Mr. Le's motion for review discusses the manner in which his chest injury occurred. However, there is no dispute on that point, and Judge Holley has concluded that Mr. Le is entitled to benefits for that injury. It appears that Mr. Le's primary concern is with the extent and amount of

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his benefits. On this point, the Commission notes that Judge Holley's amended order requires Levelor to continue to pay for medical care necessary to treat Mr. Le's work-related chest injury. As to disability compensation for Mr. Le's chest injury, the evidence establishes that he did not miss more than three days as a result of the injury, nor did he suffer any permanent disability from the injury. Under these circumstances, Judge Holley correctly concluded that Mr. Le is not entitled to any workers' compensation disability payments for his chest injury.

The Commission notes that Mr. Le also mentions back pain and difficulty walking. The Commission finds no evidence to indicate that these problems are related to his work at Levelor. Consequently, they are not compensable under the workers' compensation system.

**ORDER**

The Commission affirms Judge Holley's amended order. It is so ordered.

Dated this 18<sup>th</sup> day of July, 2008.

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Sherrie Hayashi  
Utah Labor Commissioner

**NOTICE OF APPEAL RIGHTS**

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.